

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 1034

Introduced by Senator Mitchell

February 12, 2016

An act to amend Section 1374.73 of the Health and Safety Code, to amend Sections 10144.51 and 10144.52 of the Insurance Code, and to amend Section 14132.56 of the Welfare and Institutions Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1034, as amended, Mitchell. Health care coverage: autism.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism until January 1, 2017, and defines "behavioral health treatment" to mean specified services provided by, among others, a qualified autism service professional supervised and employed by a qualified autism service provider. Existing law defines a "qualified autism service professional" to mean a person who, among other requirements, is a behavior service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior

management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act. Existing law requires a treatment plan to be reviewed no less than once every 6 months. Under existing law, the above provisions do not apply to certain types of health care coverage, including health care service plans and health insurance policies in the Medi-Cal program.

This bill would, among other things, modify requirements to be a qualified autism service professional to include providing behavioral health treatment, ~~such as clinical management and case supervision, which may include clinical management and case supervision under the direction and supervision of a qualified autism service provider.~~ The bill would require ~~that a treatment plan be reviewed that, unless a treatment plan is modified by a qualified autism service provider, utilization review be conducted no more than once every 6 months, unless a shorter period is recommended by the qualified autism service provider.~~ months. The bill would also provide that coverage for behavioral health treatment for pervasive developmental disorder or autism would be dependent on medical necessity, subject to utilization review, and required to be in compliance with federal mental health parity requirements. The bill would extend the operation of these provisions to January 1, 2022. The bill would require behavioral health treatment for purposes of the Medi-Cal program to expressly comply with the approved Medicaid state plan. The bill also would make clarifying and conforming changes.

By extending the operation of these provisions, the violation of which by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1374.73 of the Health and Safety Code
2 is amended to read:

1 1374.73. (a) (1) Every health care service plan contract that
2 provides hospital, medical, or surgical coverage shall also provide
3 coverage for behavioral health treatment for pervasive
4 developmental disorder or autism no later than July 1, 2012. The
5 coverage shall be provided in the same manner and shall be subject
6 to the same requirements as provided in Section 1374.72.

7 (2) Notwithstanding paragraph ~~(1)~~, ~~as of the date that proposed~~
8 ~~final rulemaking for essential health benefits is issued~~, (1), this
9 section does not require any benefits to be provided that exceed
10 the essential health benefits that all health plans will be required
11 by federal regulations to provide under Section 1302(b) of the
12 federal Patient Protection and Affordable Care Act (Public Law
13 111-148), as amended by the federal Health Care and Education
14 Reconciliation Act of 2010 (Public Law 111-152).

15 (3) This section shall not affect services for which an individual
16 is eligible pursuant to Division 4.5 (commencing with Section
17 4500) of the Welfare and Institutions Code or Title 14
18 (commencing with Section 95000) of the Government Code.

19 (4) This section shall not affect or reduce any obligation to
20 provide services under an individualized education program, as
21 defined in Section 56032 of the Education Code, or an individual
22 service plan, as described in Section 5600.4 of the Welfare and
23 Institutions Code, or under the federal Individuals with Disabilities
24 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
25 regulations.

26 (5) *This section shall not be construed to require a health care*
27 *service plan to provide reimbursement for services delivered by*
28 *school personnel pursuant to an enrollee's individualized*
29 *educational program unless otherwise required by law.*

30 (b) Every health care service plan subject to this section shall
31 maintain an adequate network that includes qualified autism service
32 providers who supervise qualified autism service professionals or
33 paraprofessionals who provide and administer behavioral health
34 treatment. Nothing *herein* shall prevent a health care service plan
35 from selectively contracting with providers within these
36 requirements.

37 (c) For the purposes of this section, the following definitions
38 shall apply:

39 (1) "Behavioral health treatment" means professional services
40 and treatment programs, including applied behavior analysis and

1 other evidence-based behavior intervention programs, that develop,
2 keep, or restore, to the maximum extent practicable, the functioning
3 of an individual with pervasive developmental disorder or autism
4 and that meet all of the following criteria:

5 (A) The treatment is prescribed by a physician and surgeon
6 licensed pursuant to Chapter 5 (commencing with Section 2000)
7 of, or is developed by a psychologist licensed pursuant to Chapter
8 6.6 (commencing with Section 2900) of, Division 2 of the Business
9 and Professions Code.

10 (B) The treatment is provided under a treatment plan prescribed
11 by a qualified autism service provider and is administered by one
12 of the following:

13 (i) A qualified autism service provider.

14 (ii) A qualified autism service professional supervised by the
15 qualified autism service provider.

16 (iii) A qualified autism service paraprofessional supervised by
17 a qualified autism service provider.

18 (C) The treatment plan has measurable goals over a specific
19 timeline that is developed and approved by the qualified autism
20 service provider for the specific patient being treated. The treatment
21 plan shall be reviewed ~~no more~~ *less* than once every six months
22 by the qualified autism service provider, ~~unless a shorter period~~
23 ~~is recommended by the qualified autism service provider, and~~
24 modified whenever appropriate, and shall be consistent with
25 Section 4686.2 of the Welfare and Institutions Code pursuant to
26 which the qualified autism service provider does all of the
27 following:

28 (i) Describes the patient's behavioral health impairments or
29 developmental challenges that are to be treated.

30 ~~(ii) Designs an intervention plan that includes~~ *Includes* the
31 service type, number of hours, and parent or caregiver participation
32 recommended by the qualified autism service provider to achieve
33 the plan's goal and objectives, ~~and the frequency at which the~~
34 ~~patient's progress is evaluated and reported. Lack of parent or~~
35 ~~caregiver participation shall not be used to deny or reduce~~
36 ~~medically necessary behavioral health treatment.~~ *objectives.*

37 ~~(iii) Provides intervention plans that utilize~~ *Utilizes*
38 evidence-based practices, with demonstrated clinical efficacy in
39 treating pervasive developmental disorder or autism.

1 (iv) Discontinues intensive behavioral intervention services
2 when the treatment goals and objectives are achieved or no longer
3 appropriate, and continued therapy is not necessary to maintain
4 function or prevent deterioration.

5 (v) *Makes the treatment plan available to the health care service*
6 *plan upon request.*

7 (D) ~~(i)~~—The treatment plan is not used for purposes of providing
8 or for the reimbursement of respite, day care, or academic services
9 and is not used to reimburse a parent for participating in the
10 treatment program.

11 ~~(ii) The setting, location, or time of treatment shall not be used~~
12 ~~as a reason to deny medically necessary behavioral health~~
13 ~~treatment.~~

14 ~~(iii) The treatment plan shall be made available to the health~~
15 ~~care service plan upon request.~~

16 (2) “Pervasive developmental disorder or autism” shall have
17 the same meaning and interpretation as used in Section 1374.72.

18 (3) “Qualified autism service provider” means either of the
19 following:

20 (A) A person, entity, or group that is certified by a national
21 entity, such as the Behavior Analyst Certification Board, that is
22 accredited by the National Commission for Certifying Agencies,
23 and who designs, supervises, or provides treatment for pervasive
24 developmental disorder or autism, provided the services are within
25 the experience and competence of the person, entity, or group that
26 is nationally certified.

27 (B) A person licensed as a physician and surgeon, physical
28 therapist, occupational therapist, psychologist, marriage and family
29 therapist, educational psychologist, clinical social worker,
30 professional clinical counselor, speech-language pathologist, or
31 audiologist pursuant to Division 2 (commencing with Section 500)
32 of the Business and Professions Code, who designs, supervises,
33 or provides treatment for pervasive developmental disorder or
34 autism, provided the services are within the experience and
35 competence of the licensee.

36 (4) “Qualified autism service professional” means an individual
37 who meets all of the following criteria:

38 (A) ~~Provides behavioral health treatment, including clinical~~
39 ~~management and case supervision. treatment, which may include~~

1 *clinical management and case supervision under the direction and*
2 *supervision of a qualified autism service provider.*

3 (B) Is supervised by a *person, entity, or group that is a* qualified
4 autism service provider.

5 (C) Provides treatment pursuant to a treatment plan developed
6 and approved by the qualified autism service provider.

7 (D) Is a behavioral service provider who meets the education
8 and experience qualifications defined in Section 54342 of Title 17
9 of the California Code of Regulations for an Associate Behavior
10 Analyst, Behavior Analyst, Behavior Management Assistant,
11 Behavior Management Consultant, or Behavior Management
12 Program.

13 (E) Has training and experience in providing services for
14 pervasive developmental disorder or autism pursuant to Division
15 4.5 (commencing with Section 4500) of the Welfare and
16 Institutions Code or Title 14 (commencing with Section 95000)
17 of the Government Code.

18 (5) “Qualified autism service paraprofessional” means an
19 unlicensed and uncertified individual who meets all of the
20 following criteria:

21 (A) Is supervised by a ~~qualified autism service provider.~~ *person,*
22 *entity, or group that is a qualified autism service provider or*
23 *qualified autism service professional.*

24 (B) Provides treatment and implements services pursuant to a
25 treatment plan developed and approved by the qualified autism
26 service provider or qualified autism service professional.

27 (C) Meets the education and training qualifications defined in
28 ~~the regulations adopted pursuant to Section 4686.3 of the Welfare~~
29 ~~and Institutions Code. Section 54342 of Article 3 of Subchapter 2~~
30 ~~of Chapter 3 of Division 2 of Title 17 of the California Code of~~
31 ~~Regulations.~~

32 (D) Has adequate education, training, and experience, as
33 certified by a qualified autism service provider.

34 (d) This section shall not apply to the following:

35 (1) A specialized health care service plan that does not deliver
36 mental health or behavioral health services to enrollees.

37 (2) A health care service plan contract in the Medi-Cal program
38 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
39 9 of the Welfare and Institutions Code). The provision of
40 behavioral health treatment in the Medi-Cal program, including

1 any associated obligation of a health care service plan in the
2 Medi-Cal program, is governed by Section 14132.56 of the Welfare
3 and Institutions Code, the approved Medi-Cal state plan and
4 waivers, and applicable federal Medicaid law.

5 (e) This section does not limit the obligation to provide services
6 pursuant to Section 1374.72.

7 (f) As provided in Section 1374.72 and in paragraph (1) of
8 subdivision (a), in the provision of benefits required by this section,
9 a health care service plan may utilize case management, network
10 providers, utilization review techniques, prior authorization,
11 copayments, or other cost sharing.

12 *(1) Unless a treatment plan is modified by a qualified autism*
13 *service provider, utilization review shall be conducted no more*
14 *often than every six months and shall be conducted in accordance*
15 *with good professional practice and consistent with the*
16 *requirements of Section 1363.5.*

17 *(2) The setting, location, or time of treatment recommended by*
18 *the qualified autism service provider shall not be used as a reason*
19 *to deny or reduce coverage for medically necessary services.*

20 *(3) Lack of parent or caregiver participation shall not be used*
21 *as the sole basis for denying or reducing coverage of medically*
22 *necessary services.*

23 *(4) Notwithstanding paragraphs (2) and (3), all services shall*
24 *remain covered only to the extent that the services are medically*
25 *necessary and subject to utilization review as described in this*
26 *subdivision.*

27 *(5) Provision of services under this section, including any limits*
28 *on the scope or duration of these services, shall be in compliance*
29 *with the Paul Wellstone and Pete Domenici Mental Health Parity*
30 *and Addiction Equity Act of 2008 (Public Law 110-343), and all*
31 *rules, regulations, or guidance issued pursuant to Section 2726*
32 *of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).*

33 (g) This section shall not be construed to require coverage for
34 services that are included in ~~a patient's~~ *an enrollee's* individualized
35 education program.

36 (h) This section shall remain in effect only until January 1, 2022,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2022, deletes or extends that date.

39 SEC. 2. Section 10144.51 of the Insurance Code is amended
40 to read:

1 10144.51. (a) (1) Every health insurance policy shall also
2 provide coverage for behavioral health treatment for pervasive
3 developmental disorder or autism no later than July 1, 2012. The
4 coverage shall be provided in the same manner and shall be subject
5 to the same requirements as provided in Section 10144.5.

6 (2) Notwithstanding paragraph ~~(1)~~, as of the date that proposed
7 ~~final rulemaking for essential health benefits is issued~~, (1), this
8 section does not require any benefits to be provided that exceed
9 the essential health benefits that all health insurers will be required
10 by federal regulations to provide under Section 1302(b) of the
11 federal Patient Protection and Affordable Care Act (Public Law
12 111-148), as amended by the federal Health Care and Education
13 Reconciliation Act of 2010 (Public Law 111-152).

14 (3) This section shall not affect services for which an individual
15 is eligible pursuant to Division 4.5 (commencing with Section
16 4500) of the Welfare and Institutions Code or Title 14
17 (commencing with Section 95000) of the Government Code.

18 (4) This section shall not affect or reduce any obligation to
19 provide services under an individualized education program, as
20 defined in Section 56032 of the Education Code, or an individual
21 service plan, as described in Section 5600.4 of the Welfare and
22 Institutions Code, or under the federal Individuals with Disabilities
23 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
24 regulations.

25 (5) *This section shall not be construed to require a health*
26 *insurer to provide reimbursement for services delivered by school*
27 *personnel pursuant to an insured's individualized educational*
28 *program unless otherwise required by law.*

29 (b) Pursuant to Article 6 (commencing with Section 2240) of
30 Title 10 of the California Code of Regulations, every health insurer
31 subject to this section shall maintain an adequate network that
32 includes qualified autism service providers who supervise qualified
33 autism service professionals or paraprofessionals who provide and
34 administer behavioral health treatment. Nothing *herein* shall
35 prevent a health insurer from selectively contracting with providers
36 within these requirements.

37 (c) For the purposes of this section, the following definitions
38 shall apply:

39 (1) "Behavioral health treatment" means professional services
40 and treatment programs, including applied behavior analysis and

1 other evidence-based behavior intervention programs, that develop,
2 keep, or restore, to the maximum extent practicable, the functioning
3 of an individual with pervasive developmental disorder or autism,
4 and that meet all of the following criteria:

5 (A) The treatment is prescribed by a physician and surgeon
6 licensed pursuant to Chapter 5 (commencing with Section 2000)
7 of, or is developed by a psychologist licensed pursuant to Chapter
8 6.6 (commencing with Section 2900) of, Division 2 of the Business
9 and Professions Code.

10 (B) The treatment is provided under a treatment plan prescribed
11 by a qualified autism service provider and is administered by one
12 of the following:

13 (i) A qualified autism service provider.

14 (ii) A qualified autism service professional supervised by the
15 qualified autism service provider.

16 (iii) A qualified autism service paraprofessional supervised by
17 a qualified autism service provider.

18 (C) The treatment plan has measurable goals over a specific
19 timeline that is developed and approved by the qualified autism
20 service provider for the specific patient being treated. The treatment
21 plan shall be reviewed ~~no more~~ *less* than once every six months
22 by the qualified autism service provider, ~~unless a shorter period~~
23 ~~is recommended by the qualified autism service provider, and~~
24 modified whenever appropriate, and shall be consistent with
25 Section 4686.2 of the Welfare and Institutions Code pursuant to
26 which the qualified autism service provider does all of the
27 following:

28 (i) Describes the patient's behavioral health impairments or
29 developmental challenges that are to be treated.

30 ~~(ii) Designs an intervention plan that includes~~ *Includes* the
31 service type, number of hours, and parent or caregiver participation
32 recommended by a qualified autism service provider to achieve
33 the plan's goal and objectives, ~~and the frequency at which the~~
34 ~~patient's progress is evaluated and reported. Lack of parent or~~
35 ~~caregiver participation shall not be used to deny or reduce~~
36 ~~medically necessary behavioral health treatment.~~ *objectives.*

37 ~~(iii) Provides intervention plans that utilize~~ *Utilizes*
38 evidence-based practices, with demonstrated clinical efficacy in
39 treating pervasive developmental disorder or autism.

1 (iv) Discontinues intensive behavioral intervention services
2 when the treatment goals and objectives are achieved or no longer
3 appropriate, and continued therapy is not necessary to maintain
4 function or prevent deterioration.

5 (v) *Makes the treatment plan available to the health insurer*
6 *upon request.*

7 (D) ~~(i)~~—The treatment plan is not used for purposes of providing
8 or for the reimbursement of respite, day care, or academic services
9 and is not used to reimburse a parent for participating in the
10 treatment program.

11 ~~(ii) The setting, location, or time of treatment shall not be used~~
12 ~~as a reason to deny medically necessary behavioral health~~
13 ~~treatment.~~

14 ~~(iii) The treatment plan shall be made available to the insurer~~
15 ~~upon request.~~

16 (2) “Pervasive developmental disorder or autism” shall have
17 the same meaning and interpretation as used in Section 10144.5.

18 (3) “Qualified autism service provider” means either of the
19 following:

20 (A) A person, entity, or group that is certified by a national
21 entity, such as the Behavior Analyst Certification Board, that is
22 accredited by the National Commission for Certifying Agencies,
23 and who designs, supervises, or provides treatment for pervasive
24 developmental disorder or autism, provided the services are within
25 the experience and competence of the person, entity, or group that
26 is nationally certified.

27 (B) A person licensed as a physician and surgeon, physical
28 therapist, occupational therapist, psychologist, marriage and family
29 therapist, educational psychologist, clinical social worker,
30 professional clinical counselor, speech-language pathologist, or
31 audiologist pursuant to Division 2 (commencing with Section 500)
32 of the Business and Professions Code, who designs, supervises,
33 or provides treatment for pervasive developmental disorder or
34 autism, provided the services are within the experience and
35 competence of the licensee.

36 (4) “Qualified autism service professional” means an individual
37 who meets all of the following criteria:

38 (A) ~~Provides behavioral health treatment, including clinical~~
39 ~~management and case supervision. treatment, which may include~~

1 *clinical management and case supervision under the direction and*
2 *supervision of a qualified autism service provider.*

3 (B) Is employed and supervised by a *person, entity, or group*
4 *that is a qualified autism service provider.*

5 (C) Provides treatment pursuant to a treatment plan developed
6 and approved by the qualified autism service provider.

7 (D) Is a behavioral service provider who meets the education
8 and experience qualifications defined in Section 54342 of Title 17
9 of the California Code of Regulations for an Associate Behavior
10 Analyst, Behavior Analyst, Behavior Management Assistant,
11 Behavior Management Consultant, or Behavior Management
12 Program.

13 (E) Has training and experience in providing services for
14 pervasive developmental disorder or autism pursuant to Division
15 4.5 (commencing with Section 4500) of the Welfare and
16 Institutions Code or Title 14 (commencing with Section 95000)
17 of the Government Code.

18 (5) “Qualified autism service paraprofessional” means an
19 unlicensed and uncertified individual who meets all of the
20 following criteria:

21 (A) Is supervised by a ~~qualified autism service provider.~~ *person,*
22 *entity, or group that is a qualified autism service provider or*
23 *qualified autism service professional.*

24 (B) Provides treatment and implements services pursuant to a
25 treatment plan developed and approved by the qualified autism
26 service provider or qualified autism service professional.

27 (C) Meets the education and training qualifications defined in
28 ~~the regulations adopted pursuant to Section 4686.3 of the Welfare~~
29 ~~and Institutions Code. Section 54342 of Article 3 of Subchapter 2~~
30 ~~of Chapter 3 of Division 2 of Title 17 of the California Code of~~
31 ~~Regulations.~~

32 (D) Has adequate education, training, and experience, as
33 certified by a qualified autism service provider.

34 (d) This section shall not apply to the following:

35 (1) A specialized health insurance policy that does not cover
36 mental health or behavioral health services or an accident only,
37 specified disease, hospital indemnity, or Medicare supplement
38 policy.

39 (2) A health insurance policy in the Medi-Cal program (Chapter
40 7 (commencing with Section 14000) of Part 3 of Division 9 of the

Welfare and Institutions Code). The provision of behavioral health treatment in the Medi-Cal program, including any associated obligation of a health insurance policy in the Medi-Cal program, is governed by Section 14132.56 of the Welfare and Institutions Code, the approved Medi-Cal state plan and waivers, and applicable federal Medicaid law.

(e) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(1) Unless a treatment plan is modified by a qualified autism service provider, utilization review shall be conducted no more often than every six months and shall be conducted in accordance with good professional practice and consistent with the requirements of subdivision (f) of Section 10123.135.

(2) The setting, location, or time of treatment recommended by the qualified autism service provider shall not be used as a reason to deny or reduce coverage for medically necessary services.

(3) Lack of parent or caregiver participation shall not be used as the sole basis for denying or reducing coverage of medically necessary services.

(4) Notwithstanding paragraphs (2) and (3), all services shall remain covered only to the extent that the services are medically necessary and subject to utilization review as described in this subdivision.

(5) Provision of services under this section, including any limits on the scope or duration of these services, shall be in compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), and all rules, regulations, or guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(f) This section shall not be construed to require coverage for services that are included in ~~a patient's~~ *an insured's* individualized education program.

(g) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

1 SEC. 3. Section 10144.52 of the Insurance Code is amended
2 to read:

3 10144.52. (a) For purposes of this part, the terms “provider,”
4 “professional provider,” “network provider,” “mental health
5 provider,” and “mental health professional” shall include the term
6 “qualified autism service provider,” as defined in subdivision (c)
7 of Section 10144.51.

8 (b) This section shall remain in effect only until January 1, 2022,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2022, deletes or extends that date.

11 SEC. 4. ~~Section 14132.56 of the Welfare and Institutions Code~~
12 ~~is amended to read:~~

13 ~~14132.56. (a) (1) Only to the extent required by the federal~~
14 ~~government and effective no sooner than required by the federal~~
15 ~~government, behavioral health treatment (BHT) shall be a covered~~
16 ~~Medi-Cal service for individuals under 21 years of age.~~

17 ~~(2) It is the intent of the Legislature that, to the extent the federal~~
18 ~~government requires BHT to be a covered Medi-Cal service, the~~
19 ~~department shall seek statutory authority to implement this new~~
20 ~~benefit in Medi-Cal.~~

21 ~~(3) For purposes of this section, “behavioral health treatment”~~
22 ~~or “BHT” means professional services and treatment programs,~~
23 ~~including applied behavior analysis and evidence-based behavior~~
24 ~~intervention programs that develop or restore, to the maximum~~
25 ~~extent practicable, the functioning of an individual with pervasive~~
26 ~~developmental disorder or autism, and are administered as~~
27 ~~described in the approved state plan.~~

28 ~~(b) The department shall implement, or continue to implement,~~
29 ~~this section only after all of the following occurs or has occurred:~~

30 ~~(1) The department receives all necessary federal approvals to~~
31 ~~obtain federal funds for the service.~~

32 ~~(2) The department seeks an appropriation that would provide~~
33 ~~the necessary state funding estimated to be required for the~~
34 ~~applicable fiscal year.~~

35 ~~(3) The department consults with stakeholders.~~

36 ~~(e) The department shall develop and define eligibility criteria,~~
37 ~~provider participation criteria, utilization controls, and delivery~~
38 ~~system structure for services under this section, subject to~~
39 ~~limitations allowable under federal law, in consultation with~~
40 ~~stakeholders.~~

~~(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until regulations are adopted. The department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this section, the department shall provide semiannual status reports to the Legislature, in compliance with Section 9795 of the Government Code, until regulations have been adopted.~~

~~(e) For the purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance. Contracts may be statewide or on a more limited geographic basis. Contracts entered into or amended under this subdivision shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code, and shall be exempt from the review or approval of any division of the Department of General Services.~~

~~(f) The department may seek approval of any necessary state plan amendments or waivers to implement this section. The department shall make any state plan amendments or waiver requests public at least 30 days prior to submitting to the federal Centers for Medicare and Medicaid Services, and the department shall work with stakeholders to address the public comments in the state plan amendment or waiver request.~~

~~(g) This section shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.~~

SEC. 4. Section 14132.56 of the Welfare and Institutions Code is amended to read:

14132.56. (a) (1) Only to the extent required by the federal government and effective no sooner than required by the federal government, behavioral health treatment (BHT), as defined by

1 ~~Section 1374.73 of the Health and Safety Code, (BHT)~~ shall be a
2 covered Medi-Cal service for individuals under 21 years of age.

3 (2) It is the intent of the Legislature that, to the extent the federal
4 government requires BHT to be a covered Medi-Cal service, the
5 department shall seek statutory authority to implement this new
6 benefit in Medi-Cal.

7 (3) *For purposes of this section, “behavioral health treatment”*
8 *or “BHT” means professional services and treatment programs,*
9 *including applied behavior analysis and evidence-based behavior*
10 *intervention programs that develop or restore, to the maximum*
11 *extent practicable, the functioning of an individual with pervasive*
12 *developmental disorder or autism, and are administered as*
13 *described in the approved state plan.*

14 (b) The department shall implement, or continue to implement,
15 this section only after all of the following occurs or has occurred:

16 (1) The department receives all necessary federal approvals to
17 obtain federal funds for the service.

18 (2) The department seeks an appropriation that would provide
19 the necessary state funding estimated to be required for the
20 applicable fiscal year.

21 (3) The department consults with stakeholders.

22 (c) The department shall develop and define eligibility criteria,
23 provider participation criteria, utilization controls, and delivery
24 system structure for services under this section, subject to
25 limitations allowable under federal law, in consultation with
26 stakeholders.

27 (d) (1) The department, commencing on the effective date of
28 the act that added this subdivision until March 31, 2017, inclusive,
29 may make available to individuals described in paragraph (2)
30 contracted services to assist those individuals with health insurance
31 enrollment, without regard to whether federal funds are available
32 for the contracted services.

33 (2) The contracted services described in paragraph (1) may be
34 provided only to an individual under 21 years of age whom the
35 department identifies as no longer eligible for Medi-Cal solely due
36 to the transition of BHT coverage from the waiver program under
37 Section 1915(c) of the federal Social Security Act to the Medi-Cal
38 state plan in accordance with this section and who meets all of the
39 following criteria:

1 (A) He or she was enrolled in the home and community-based
2 services waiver for persons with developmental disabilities under
3 Section 1915(c) of the Social Security Act as of January 31, 2016.

4 (B) He or she was deemed to be institutionalized in order to
5 establish eligibility under the terms of the waiver.

6 (C) He or she has not been found eligible under any other
7 federally funded Medi-Cal criteria without a share of cost.

8 (D) He or she had received a BHT service from a regional center
9 for persons with developmental disabilities as provided in Chapter
10 5 (commencing with Section 4620) of Division 4.5.

11 (e) Notwithstanding Chapter 3.5 (commencing with Section
12 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
13 the department, without taking any further regulatory action, shall
14 implement, interpret, or make specific this section by means of
15 all-county letters, plan letters, plan or provider bulletins, or similar
16 instructions until regulations are adopted. The department shall
17 adopt regulations by July 1, 2017, in accordance with the
18 requirements of Chapter 3.5 (commencing with Section 11340) of
19 Part 1 of Division 3 of Title 2 of the Government Code.
20 Notwithstanding Section 10231.5 of the Government Code,
21 beginning six months after the effective date of this section, the
22 department shall provide semiannual status reports to the
23 Legislature, in compliance with Section 9795 of the Government
24 Code, until regulations have been adopted.

25 (f) For the purposes of implementing this section, the department
26 may enter into exclusive or nonexclusive contracts on a bid or
27 negotiated basis, including contracts for the purpose of obtaining
28 subject matter expertise or other technical assistance. Contracts
29 may be statewide or on a more limited geographic basis. Contracts
30 entered into or amended under this subdivision shall be exempt
31 from Part 2 (commencing with Section 10100) of Division 2 of
32 the Public Contract Code, Section 19130 of the Government Code,
33 and Chapter 6 (commencing with Section 14825) of Part 5.5 of
34 Division 3 of the Government Code, and shall be exempt from the
35 review or approval of any division of the Department of General
36 Services.

37 (g) The department may seek approval of any necessary state
38 plan amendments or waivers to implement this section. The
39 department shall make any state plan amendments or waiver
40 requests public at least 30 days prior to submitting to the federal

Centers for Medicare and Medicaid Services, and the department shall work with stakeholders to address the public comments in the state plan amendment or waiver request.

(h) This section shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.